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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,000

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John M. Guynn

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John M. Guynn  
WORKMAN NYDEGGER  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, UT 84111

EXAMINER

VALENTI, ANDREA M

ART UNIT

PAPER NUMBER

3643

MAIL DATE

DELIVERY MODE

01/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

### Application No.

10/729,000

### Applicant(s)

GUYNN, JOHN M.

### Examiner

ANDREA M. VALENTI

### Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20,22,24-26,28 and <sup>30</sup>~~40-50~~ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38 is/are allowed.
- 6) ☒ Claim(s) 20,22,24-26 and <sup>30</sup>~~40-50~~ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 22, 24, 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,308,629 to Freemon in view of U.S. Patent No. 5,647,378 to Farnum.

Regarding Claims 20, 22 and 26, Freemon teaches a method of holding a child in a desired position while in water (Freemon abstract second line, and Col.3 line 21-36) with a device comprising releasably attaching a restraint device (Freemon Fig. 2 #12) to a torso of the child in order for at least one strap of the device to be circumferentially wrapped around the torso and so that a handle (Freemon Fig. 3 #20) attached to the at least one strap extends laterally away from the strap so as to provide an opening into which fingers can be inserted and is positioned at or near a central balancing plane of the child's body between the child's head and buttocks and so that a portion thereof extends laterally away from the child's body to facilitate gripping of the handle.

Freemon teaches for use in water to use a hand to restrain the child in a particular position, but is silent on the water explicitly being a bath. However, Farnum teaches a restraint designed to be used when bathing (Farnum Col. 2 line 31-32). It

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would have been obvious to one of ordinary skill in the art to modify the teachings of Freemon of water with the bath water of Farnum at the time of the invention since the modification is merely a known alternate water environment i.e. simply the substitution of one known water element for another to obtain predictable results to ensure safety of a child in known alternate water environments.

The method steps of the instant claims of washing the child with a second hand while gripping the handle with the first hand so as to maintain the child in at least one of a sitting, standing or upright position are readily apparent during the operation of the device of Freemon. Examiner takes official notice that the method steps are known to those skilled in the art, sponge baths conducted by either a nurse to a patient or a mother to a child inherently involves providing support to the patient/child with one hand and washing with the second hand when the bath is conducted by one nurse or one mother alone. The mother or nurse would inherently at some point during the bath grip the handles with a hand to support the child when washing a particular region of the body.

Regarding Claims 24 and 25, Freemon as modified teaches releasably attaching a second handle on a side of the child's body opposite the handles so that one of the handles is adjacent to the child's spine and another is adjacent to the child's sternum and gripping both handles while lifting the child in or out of the basin (Farnum Fig. 2; Col. 1 line 31-32, Col. 2 line 31). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Freemon with the teachings of Farnum at the

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time of the invention since the modification is merely the duplication of a known element for a multiple effect for the known advantage of lifting as taught by Farnum.

Claims 30, 31, 33, 34, 35, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger.

Regarding Claims 30, 34, 35 and 50, Hasslinger teaches restraint device for use in holding or restraining a child (Hasslinger teaches the body of a human and a child is a human, the premise of the device is to support a humane) in a desired position and in a balanced manner on opposite sides of the child's body, comprising: a corset having an upper edge and a lower edge and comprising at least one strap having a length so as to wrap around a child's body (Hasslinger Fig. 1 and 4 #10), the strap including an underlying end and an overlapping end which overlaps the underlying end when the corset is wrapped around a child's body during use (Hasslinger Fig. 5); means for releasably fastening the corset to a child's body in a manner so that the overlapping end of the strap overlaps the underlying end when the corset is wrapped around a child's body (Hasslinger Fig. 2); a first handle (Hasslinger Fig. 4 #40 left side) attached to the corset approximately midway between the underlying end and overlapping end of the strap so as to be positioned on a central balancing plane that bisects a child's body into two halves when the corset is wrapped around a child's body during use, the first handle having a loop, at least a portion of which extends transversely between the upper and lower edges of the corset; and a second handle (Hasslinger Fig. 4 #40 right) having a

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loop, at least a portion of which extends transversely between the upper and lower edges of the corset.

Hasslinger teaches that the handles are in spaced disposition and are only generally at the midpoint (Hasslinger Col. 6 line 46-49 and Col. 7 line 25-28), but is silent on explicitly teaching the second handle is attached to the corset near the underlying end of the strap so as to be positioned on the central balancing plane on a side of a child's body opposite the first handle when the corset is wrapped around a child's body during use, the second handle that is positioned so that the overlapping end of the strap passes through the loop of the second handle when the corset is wrapped around a child's body use. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Hasslinger at the time of the invention since the modification is merely "obvious to try" choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success for desired ambulatory support i.e. different positions for more stability.

The device of Hasslinger is for guiding an individual which inherently could include children and that the device is designed to accommodate individuals of different girth (Hasslinger Col. 4 line 10-11 and Col. 7 line 25-27). Given another interpretation of the claim it could be viewed that Hasslinger does not explicitly teach the restraint device being worn by a child. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Hasslinger at the time of the invention since the modification is merely a change in size to accommodate a child to provide proper

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safety/rescue/support measures [*In re Rose*, 220 F.2d 459, 463, 105 USPQ 237, 240 (CCPA 1955)].

Regarding Claim 31, Hasslinger as modified teaches first and second handles comprising at least one of a fabric, plastic, elastomer, metal, ceramic, or composite material (Hasslinger fabric Fig. 1 #38).

Regarding Claim 33, Hasslinger as modified teaches means for releasably fastening the corset to a child's body comprising one or more of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet attached to the corset (Hasslinger Col. 5 line 66-67).

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 6,073,280 to Farnum.

Regarding Claim 32, Hasslinger as modified is silent on the attachment means comprising a plurality of straps configured so as to wrap at least partially around the child's torso or limbs. However, Farnum '280 teaches a plurality of straps (Farnum '280 Fig. 2 #19, 33, 18, 54). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Hasslinger with the teachings of Farnum '280 at the time of the invention since the modification is merely duplicating a part for a multiple effect for the advantage of being able to grip the device in more locations (Farnum '280 #66).

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Claims 36, 38, 39, 42, 45, and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 4,717,056 to Carmichael.

Regarding Claim 36, 38, 39, 42, 45, and 46-48, Hasslinger teaches one end attached to the top and bottom of the corset, but as modified is silent on wherein at least one of the first or second handles is a releasable handle comprising first and second handle straps, each having an end permanently attached to the corset and a free end, and attachment means for releasably joining the free ends of the first and second handle straps in order to selectively form a loop, at least a portion of which extends transversely between the upper and lower edges of the corset.

However, Carmichael teaches that it is old and notoriously well-known to provide adjustable handles that selectively connect and disconnect with an attachment means (Carmichael #38; Fig. 2 #37, 36, 38). It would have been obvious to one of ordinary skill in the art to modify the handles of Hasslinger with the attachment means of Carmichael at the time of the invention for the known advantage of making the handles adjustable in size to accommodate different size hands comfortably. Merely modifying to make a known element adjustable does not present a patentably distinct limitation over the teachings of the cited prior art of record [*In re Stevens*, 212, F.2d 197, 198, 101 USPQ 284, 285 (CCPA 1954)]. The modification is merely applying a known technique to a known device to yield predictable results.



Claims 49, 43, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 4,717,056 to Carmichael as applied to claim 46 above, and further in view of U.S. Patent No. 4,308,649 to Freemon.

Regarding Claims 43, 44, 49, Hasslinger as modified teaches releasable handles (Carmichael Fig. 2 #38), but is silent on a leash that is releasably attachable to the free end of at least one of the first or second handle straps when the first handle strap of the releasable handle is detached from the second handle strap, the leash being releasably attachable to the free end of at least one of the first or second handle straps by engaging the attachment means disposed on the at least one of the first or second handle straps. However, Freemon teaches attaching a leash to the handle of a child restraint corset (Freemon Fig.3 #24 and Fig. 4 #22). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Hasslinger with the teachings of Freemon at the time of the invention to give the user more freedom of movement as taught by Freemon (Freemon Col. 3 line 53).

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 5,007,413 to Thune.

Regarding Claim 37, Hasslinger as modified is silent a head restraint system attached to the corset and comprising a hood or strap having a concave region configured to receive and engage at least a portion of a child's skull region in order for

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the head restraining system to restrain the child's head in a desired position relative to the child's body when the head restraint system is in use.

However, Thune teaches a head restraint system (Thune Fig. 2 #11, 12) comprising a concave region configured to receive at least a portion of the child's skull in order for the head restraint system to securely restrain that is configured to attach to a child's head and restrain the child's head in a desired position. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Hasslinger with the teachings of Thune at the time of the invention for the advantage of immobilizing the head in a first aid response as taught by Thune (Thune abstract).

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 4,717,056 to Carmichael as applied to claim 38 above, and further in view of U.S. Patent No. 6,073,280 to Farnum.

Regarding Claim 40, Hasslinger as modified is silent on the attachment means comprising a plurality of straps configured so as to wrap at least partially around the child's torso or limbs/shoulders or legs. However, Farnum '280 teaches a plurality of straps (Farnum '280 Fig. 2 #19, 33, 18, 54). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Hasslinger with the teachings of Farnum '280 at the time of the invention since the modification is merely duplicating a part for a multiple effect for the advantage of being able to grip the device in more locations (Farnum '280 #66).

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,396,013 to Hasslinger in view of U.S. Patent No. 4,717,056 to Carmichael as applied to claim 38 above, and further in view of U.S. Patent No. 5,007,413 to Thune.

Regarding Claim 41, Hasslinger as modified is silent a head restraint system attached to the corset and comprising a hood or strap having a concave region configured to receive and engage at least a portion of a child's skull region in order for the head restraining system to restrain the child's head in a desired position relative to the child's body when the head restraint system is in use.

However, Thune teaches a head restraint system (Thune Fig. 2 #11, 12) comprising a concave region configured to receive at least a portion of the child's skull in order for the head restraint system to securely restrain that is configured to attach to a child's head and restrain the child's head in a desired position. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Hasslinger with the teachings of Thune at the time of the invention for the advantage of immobilizing the head in a first aid response as taught by Thune (Thune abstract).

***Allowable Subject Matter***

Claim 28 is allowed.

***Response to Arguments***

Applicant's arguments filed 01 November 2007 have been fully considered but they are not persuasive.

Examiner maintains that the device of Freeman is to provide support and control to a child in a water situation. The method steps of the instant claims of washing the child with a second hand while gripping the handle with the first hand so as to maintain the child in at least one of a sitting, standing or upright position are readily apparent during the operation of the device of Freeman. The structure of the device is taught by Freeman and therefore the method is apparent from the operation of the device.

Applicant's arguments with respect to claims 30-50 have been considered but are moot in view of the new ground(s) of rejection.

The examiner consulted with SPE Peter Poon regarding the newly presented claims and the structure of applicant's Fig. 7B. In view of KSR, it is the examiner's position that applicant has not patentably distinguished over the teachings of the cited prior art of record.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREA M. VALENTI whose telephone number is (571)272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrea M. Valenti/  
Primary Examiner, Art Unit 3643

15 January 2007